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Letter dated 12 September 2003 from the Secretary-General addressed to the President of the Security Council

I am attaching for your consideration and for the consideration of the members of the Security Council a letter, dated 8 September 2003, from the President of the International Criminal Tribunal for Rwanda, Judge Erik Møse (see annex).

In his letter, President Møse requests that the Security Council amend the statute of the International Criminal Tribunal for Rwanda so that, during the period during which an ad litem judge is appointed to serve on the Tribunal for a trial, he or she can also adjudicate in pre-trial proceedings in other cases.

President Møse recalls that, under the statute of the International Criminal Tribunal for Rwanda as it now stands, ad litem judges are competent only to adjudicate in the trial proceedings of the cases to which they are appointed. They are therefore not competent to adjudicate in pre-trial proceedings in other cases before the Tribunal, even though they might be available for that purpose, practically speaking.

President Møse observes that amending the statute of the International Criminal Tribunal for Rwanda in the manner that he proposes would facilitate the conduct of judicial business before the Tribunal and enable it to make better use of the time and abilities of ad litem judges who are appointed to serve in its trials.

You may recall that, earlier this year, the Security Council acceded to an identical proposal by the President of the International Criminal Tribunal for the Former Yugoslavia.

I should be most grateful if you could bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex

Letter dated 8 September 2003 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

On 19 May 2003, the Security Council adopted resolution 1481 (2003), enhancing the powers of ad litem judges at the International Criminal Tribunal for the Former Yugoslavia (ICTY), so that, during the period of their appointment to a trial, they may also adjudicate in pre-trial proceedings in other cases. The purpose of the present letter is to request that the Security Council adopt a similar resolution for ad litem judges at the International Criminal Tribunal for Rwanda (ICTR).

It is recalled that on 9 July 2001, my predecessor, President Navanethem Pillay, requested the creation of a pool of ad litem judges at ICTR. In that request, it was proposed that the ad litem judges should not only sit in trials but also have the competence to adjudicate over pre-trial proceedings. The matter was followed up on 16 October 2001, during my meeting with the Security Council's working group; by President Pillay in her statement on 27 November 2001 to the Security Council; and in her letter of 9 October 2002.

On 14 August 2002, the Security Council adopted resolution 1431 (2002), creating a pool of 18 ad litem judges at ICTR. Their competence was limited to trial work only. This was in conformity with the solution adopted in Security Council resolution 1329 (2000) concerning ad litem judges at ICTY. Following elections of the ICTR ad litem judges in the General Assembly on 25 June 2003, the first ad litem judge took up office in Arusha on 1 September 2003. Other judges will arrive in the near future as new trials commence.

Responding favourably to letters from the President of ICTY, Claude Jorda, and his successor, President Theodor Meron, dated 12 March 2002 and 1 May 2003, respectively, the Security Council adopted resolution 1481 (2003), allowing the ICTY ad litem judges to adjudicate in pre-trial proceedings. It is against this background that I now make this request to increase the competence of the ICTR ad litem judges.

Pre-trial motions represent a heavy workload. The present restriction on ad litem judges to participate in trial work only, prevents the ICTR from making efficient use of them. Like ICTY, ICTR has only three courtrooms available. Trial Chamber sections will sit in morning and afternoon shifts. Consequently, ad litem judges will have the time required to attend to pre-trial work even if they are sitting on trials. Given their knowledge and experience, ad litem judges will be qualified to prepare other cases for trial.

The limited and temporary character of the appointment of ad litem judges will in no way be called into question by giving them this additional responsibility. An ad litem judge will remain assigned to a particular trial and, for the duration of that trial, carry out pre-trial work in other cases. Consequently, no additional expense would be incurred by the United Nations.

In accordance with article 12 quater of the ICTR statute, ad litem judges will still not participate in the adoption of Rules of Procedure and Evidence, the review of indictments, consultations held by the President in relation to the assignment of

judges pursuant to article 13 of the statute or in relation to a pardon or commutation of sentence pursuant to article 27 of the statute. There is no question of the ad litem judges becoming quasi-permanent judges. The aim of the reform is to maximize the use of available judicial resources and to increase the judicial output at the pre-trial stage. This is an important contribution to the ICTR completion strategy.

I would appreciate it if you would transmit the present letter to the Security Council for the attention of its members.

(*Signed*) Judge Erik **Møse**
President